of anything the disposal of which is rendered necessary by reason of its having been seized under section 110(1). The section then goes on to provide for the disposal of the two categories of things which may be seized under section 110(1). For the purpose of disposal these are to be treated alike, that is to say, forfeiture must be ordered if they are proved to the satisfaction of the Court to fall into either category. In order to achieve this effect, the draftsman has resorted to using the expression "goods" in the sense of the original definition in section 2, which is applicable, to, and embraces, both categories of things which may be seized.

We are therefore of the opinion that the learned President had no discretion to order the release of the motor car and that the appeal was properly allowed in accordance with the principle laid down by Wilson J. in *Ng Ham's*[1] case.

Order accordingly.

MOHAMED YUSOFF
v. PUBLIC PROSECUTOR

[Cr. R. J. (Buhagiar J.) April 11, 1956]

[K. L. — Criminal Revision No. 6 of 1956]

Penal Code s. 292 — Obscene pictures — Criminal Procedure Code (Cap. 6), s. 407(ii) — Order of forfeiture or destruction.

Section 407(ii) of the Criminal Procedure Code (Cap. 6) confers power on the Court to make an order not only for the forfeiture or confiscation but also for the destruction of property regarding which the offence is committed.

The proper order in connection with offences under s. 292 of the Penal Code should be one for destruction and not for confiscation and where such order is made the Magistrate should take such action as may be necessary to ensure that the order is carried out and satisfy himself that it has been carried out. It is also advisable for the Magistrate to certify on the relevant record that he is satisfied that the order has been carried out.

CRIMINAL REVISION.

Buhagiar J. : — My attention was drawn to Arrest Case No. 3085 of 1956 in the Magistrates' Court at Kuala Lumpur, in which the defendant was charged with being in possession of obscene pictures, an offence under section 292 of the Penal Code.

The defendant pleaded guilty and on such plea the learned Magistrate convicted the defendant and imposed a fine of $500 and in default two months' imprisonment. The learned Magistrate made an order that the pictures be confiscated. There is no question that this order is perfectly legal but in my view it is not the proper order to be made in cases of this nature. Section 407 (ii) of the Criminal Procedure Code confers power on the Court to make an order not only for the forfeiture or confiscation but also for the destruction of property regarding which the offence is committed. In the present case the proper order to be made is that for the destruction of the pictures.

In exercise, therefore, of the revisionary powers conferred on a Judge by Chapter XXXI of the Criminal Procedure Code I substitute an order for destruction for the order for confiscation, and direct the Registrar of the Supreme Court to ensure that this order is carried out.

I may also add that in cases where exhibits in connection with offences under section 292 of the Penal Code are produced, it is desirable that the Magistrate keep such exhibits under his personal control during the trial or take such steps as may be necessary to ensure that such exhibits do not come in the hands of any persons except in so far as it may be necessary for the proceedings and that where the order for the destruction is made the Magistrate take such action as may be necessary to ensure that the order is carried out and satisfy himself that it has been carried out. It is also advisable, in my view, for the Magistrate to certify on the relevant record that he is satisfied that the order has been carried out.

Order accordingly.

NG KIM PONG v. GOH CHING (f)

[C. A. (Mathew C.J., Whyatt C.J. (S) and Good J.) January 30, 1956]

[K. L. — F.M. Civil Appeal No. 54 of 1955]

Landlord and Tenant — Surrender of lease by operation of law.

In this case the plaintiff-respondent leased to the appellant for a period of four years a plot of land on which there was a cinema building. A memorandum of